

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 8, 2008. At the time of the Office Action, Claims 15-32 were pending in this Application. Claims 15-32 were rejected. Claims 15, 16, 19-21, and 24-32 have been amended to further define various features of Applicant's invention. Claims 1-14 were previously cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 15-16, 19-21, 24-25 and 28-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0016804 by Michael A. Sheha et al. ("*Sheha*") in view of U.S. Patent No. 6,285,281 issued to Steven M. Gatto ("*Gatto*"). Applicant respectfully traverse and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

Claims 17-18, 22-23, 26-27 and 31-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Sheha* in view of *Gatto* and further in view of U.S. Patent Application Publication No. 2005/0141541 by Renaud Cuny et al. ("*Cuny*"). Applicant respectfully traverse and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal

conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The claims have been amended to clarify that the terminal devices and the methods for receiving and transmitting location information use Push-to-Talk over Cellular (PoC) terminal devices.

The amended independent claims 15, 19, 24, and 28 differ from *Sheha* in that, at least, the terminal devices are PoC terminal devices and that a user has pressed the corresponding PoC talk button for such a device. This is naturally so since *Sheha* does not concern PoC services and is silent with respect to PoC.

The Examiner considers *Gatto* to disclose that GPS information is piggybacked on verbal messages when a talk button for a marine radio is pressed. It is noted that this is only possible in *Gatto* when a specific dial setting is detected. *Gatto*, column 2, lines 52-67. *Gatto* fails to disclose that the terminal devices are PoC terminal devices and that a PoC talk button is pressed. This is naturally so since *Gatto* does not concern PoC services.

One having ordinary skill in the art, having a mobile phone system as disclosed by *Sheha*, would not look to *Gatto* or combine any teaching from *Gatto* with *Sheha*, because *Gatto* concerns a half-duplex system (a one-way radio system) while *Sheha* concerns a duplex system (a mobile phone network system). The Examiner is silent and has not given a reason why such fundamentally different systems could or would be combined. One having ordinary skill in the art would have to use inventive skills to decide which of the two systems, half or full duplex, he would use and how to integrate these two different systems with each other. If one having ordinary skill in the art would nevertheless combine *Gatto* and *Sheha*, then it is not possible that a PoC system would be developed without inventive skills, because *Gatto* and *Sheha* disclose systems without PoC services or systems.

Both *Sheha* and *Gallo* fail to disclose that, at least, the terminal devices are PoC terminal devices and that a user has pressed the corresponding PoC talk button for such a

device. This has also been confirmed by the Examiner in paragraph 4 of the last Office Action. The Examiner further considers this difference to be taught by *Cuny* because one having ordinary skill in the art would seek to reduce end-to-end delays during a PoC conversation. The Applicant respectfully disagrees.

One having ordinary skill in the art would not look to *Cuny* to reduce end-to-end delays during PoC conversation, because both *Sheha* and *Gallo* do not concern PoC services. As explained above, if one having ordinary skill in the art would nevertheless combine *Gatto* and *Sheha*, then one having ordinary skill in the art would arrive at a system absent PoC services, because *Gatto* and *Sheha* disclose systems without PoC services or systems. A problem or motivation based on reducing end-to-end delays unique to PoC conversations would therefore not be faced by one having ordinary skill in the art. Consequently, the subject matter of the independent claims is not obvious in view of a combination of *Cuny*, *Sheha*, and *Gatto*.

The rejection under 35 U.S.C. §103(a) is respectfully traversed because of the amended set of claims filed. The independent claims now specifies that the terminal devices and the methods for receiving and transmitting location information use Push-to-Talk over Cellular (PoC) terminal devices. As explained above, *Cuny*, *Sheha*, and *Gatto* fail to disclose that, at least, the terminal devices are PoC terminal devices and that a PoC talk button is pressed. As a result one of ordinary skill in the art would not arrive at the subject matter of amended claim 1. It is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

ATTORNEY DOCKET
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(2004P11374WOUS)

PATENT APPLICATION
10/516,758

Association of Customer Number and Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **31625**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **31625**. All telephone calls should be directed to Andreas Grubert at 512.322.2545. A Revocation and Power of Attorney will be submitted shortly.

CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicant

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
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Date: October 8, 2008

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